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Summary record of the 2690th meeting
Held at Headquarters, New York, on Wednesday, 10 March 2010, at 3 p.m.

Chair: Mr. Isawa

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations *(continued)*

Fourth periodic report of Argentina
(CCPR/C/ARG/4)

1. *At the invitation of the Chair, the members of the delegation of Argentina took places at the Committee table.*

2. **The Chair** informed the delegation that, in accordance with rule 71, paragraph 4, of the rules of procedure, one member of the Committee would not participate in the examination of the fourth periodic report or the discussion and adoption of the concluding observations, since they involved the State party in respect of which he was elected to the Committee.

3. **Mr. Dúhalde** (Argentina), introducing the delegation, said that the calibre of its members reflected the Government of Argentina's high regard for the work of the Human Rights Committee, and by extension, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and a range of human rights instruments embraced by the Constitution of the Republic.

4. Since 2003, the effectiveness of the Human Rights Secretariat in the Ministry of Justice, Security and Human Rights had been greatly boosted by the promotion and protection of human rights, which had been mainstreamed into all areas of policymaking and Government action.

5. The enactment of groundbreaking laws and activities had made human rights the cornerstone of Argentina's efforts to restore a democratic State. That fundamental role of promoting and protecting human rights was not simply a matter of fulfilling Argentina's international obligations. Its main purpose was to recover the ethical foundations of the State, and transfer them to public policy and administration; and to safeguard the dignity, well-being and rights of every member of society. In accordance with that philosophy, the Government of Argentina had played a leading role in promoting new basic instruments such as the Inter-American Convention on Forced Disappearance of Persons, and the recognition of the "right to truth".

6. Argentina had not only acknowledged the jurisdiction of oversight bodies called for under international instruments, but had also led a policy of transparency. Recognizing the need for independent special rapporteurs and international mechanisms for the protection of human rights, his Government had extended an open invitation, and pledged its full cooperation, to the special procedures of the Human Rights Council. The State party had not denied the undeniable: it had faced up to its responsibility and had assumed the legal consequences for facts that constituted violations of the rights and guarantees enshrined in international treaties. The current regime placed priority on international accountability, early warning mechanisms and other tools for ensuring that past violations would not be repeated in future. On several occasions, Argentina had promoted amicable agreements within the framework of the Inter-American Commission on Human Rights, in the knowledge that it was the most appropriate approach to promoting and strengthening the regional system of human rights protection.

7. In the previous seven years, the three branches of Government and civil society had worked to achieve palpable advances in the defence of human rights, particularly with respect to implementation of the International Covenant on Civil and Political Rights. He stressed that significant efforts did not necessarily lead to instant improvements, since legislative changes themselves must override cultural practices that for too long had been steeped in the habit of depriving some sectors of society of their rights.

8. Admittedly, the federal structure, which prevailed in the Republic of Argentina, complicated the transfer of norms issued at the national level to the 23 provinces, alongside the Autonomous City of Buenos Aires. Argentina's progress in the area of human rights did not mean that the Government could afford to be complacent. The Government would be exercising poor judgement if it believed it had completed its tasks and could cease to focus on areas that were in need of change. Every achievement cast the spotlight on new demands and uncovered failings that had been buried by other, more urgent, issues.

9. It was therefore in a spirit of openness that his delegation embraced the dialogue with the Committee, and he gave every assurance that its recommendations would be accepted as a valuable guide for future actions.

10. Highlighting the main points of progress since Nestor Carlos Kirchner assumed the Presidency in May 2003, he said that the Government had begun to formulate policies that were grounded on human rights principles, in the hope of recovering the ethical purpose of the State, and restoring the legitimacy of democratic institutions. To that end, the Government had done its utmost to consolidate the independence of the discredited Supreme Court of Justice by electing a new panel of magistrates of high standing and proven track record of impartiality. Another important achievement was the repeal of the "Clean Slate" Act (No. 23492) and "Due Obedience" Act (No. 23521), which had been the basis under which military repression and impunity had flourished in the 1980s. The abrogation of those laws symbolized the re-entry of the Republic into the ranks of States governed by the rule of law, united in their abhorrence of all crimes against humanity. In restructuring the rule of law, the President of the Republic had decided to overhaul the leadership of the armed forces, and other law enforcement bodies as a prerequisite for institutional change in the republican and democratic sense of the term.

11. That public policy on human rights, in all its aspects — civil, political, economic, social and cultural — had been further consolidated under the current leadership of President Cristina Fernández de Kirchner. The fight against impunity, and the vast undertaking for truth, justice, memory and compensation had continued unabated throughout the territory of Argentina, and was unstoppable.

12. Recalling the disappearance of Jorge Julio López, and the atrocities, intimidation and repression of the dictatorship, he stressed the role of witness protection and assistance programmes in bringing perpetrators to justice. The Human Rights Secretariat had already appeared as a party in over 60 trials relating to crimes against humanity, and would continue in that role, because the State party's commitment to the fight against impunity was irreversible. Former President Néstor Carlos Kirchner and the current President Cristina Fernández de Kirchner had both called for justice in Argentina as a prerequisite to establishing the rule of law and an inclusive democracy that would ensure a humane future for all.

13. One hundred persons had been convicted of State terrorism, while another 643 had been tried, the majority of whom would shortly face public hearings according to due process. Although 20 years had been lost, the authorities were committed to expediting the remaining cases, while respecting the principle of fair trial.

14. Thus far, the identities and history of 101 young persons had been restored, thanks to coordinated action between the Association of Grandmothers of the Plaza de Mayo (*Abuelas de Plaza de Mayo*), the National Commission for the Right to Identity (CONADI), and the National Genetic Data Bank. Official support for the Latin American Initiative for the Identification of Disappeared Persons, under a tripartite agreement between with the Ministry of Health, the Human Rights Secretariat, and Argentine Forensic Anthropology Unit (EAAF) had resulted in the positive identification of remains found in unmarked graves.

15. In recent years, human rights policies had come to occupy a leading place on the Government agenda, as evidenced by the adoption of legislation on the rights of children and adolescents, immigrants and refugees, indigenous peoples, persons with disabilities and persons with different sexual orientations; the ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; and reform of the Code of Military Justice. The Human Rights Secretariat had been active throughout the process, including in cases being handled within the Inter-American human rights system, where necessary.

16. In the area of "new human rights", Argentina had participated constructively in the adoption of the Universal Declaration on Bioethics and Human Rights by the United Nations Educational, Scientific and Cultural Organization in 2005 and the International Convention for the Protection of All Persons from Enforced Disappearance by the United Nations in 2006.

17. Sweeping legislative changes had improved conditions for the labour force and retired persons. On the economic front, Argentina had met its debt commitments to the International Monetary Fund and had renegotiated its external debt, obtaining unprecedented reductions. His Government's ongoing strategies were expected to restore investor confidence and economic stability, generate record levels of annual growth and strengthen its position in dealing with the international financial crisis.

18. New legislation on communication and audiovisual services was designed to encourage equal participation of the private and public sectors and civil society in the media; prevent monopolies; ensure that minority groups, including indigenous peoples, had access to the media; and expand freedom of expression by decriminalizing libel and slander.

19. There had been a substantial increase in the representation and participation of women in public life since the adoption of new norms that guaranteed the inclusion of women on the ballot. The President of Argentina was a woman, three women served in the Cabinet and two, in the Supreme Court. In addition, a national commission for equal opportunity, recently established under the aegis of the Ministry of Labour, had embarked on a vigorous campaign to secure the equal treatment of women and men in the workplace. Discrimination, human trafficking, domestic violence, and impunity had also been highlighted in specific programmes as key areas for Government action.

20. It was worth noting Argentina's role at the regional level within the framework of the Southern Common Market (MERCOSUR). Regular high-level meetings of human rights and foreign ministry officials had been held to coordinate implementation of common policies that gave full effect to the enjoyment of rights. The Human Rights Secretariat was developing a national action plan, pursuant to the recommendations contained in the Vienna Declaration and Programme of Action, with the active participation of civil society and the provincial governments.

21. Other fundamental aspects of the Government's human rights policies included educational development, social housing plans, the programmes of the Ministry of Social Development for women and children, labour cooperatives, comprehensive health plans and the National Memory Archive, which had thus far compiled 10 million pages of evidence from the past.

22. **The Chair** invited the delegation to address questions 1 to 14 on the list of issues (CCPR/C/ARG/Q/4). He apologized for the fact that the text of the delegation's written replies was available in Spanish only but gave assurances that it was a matter of concern to the Committee and would be raised with the relevant Secretariat officials.

23. **Mr. Alén** (Argentina), referring to the first question on the list of issues, said that by virtue of the 1994 constitutional reform, international conventions such as the Covenant prevailed over domestic law. In keeping with a Supreme Court of Justice ruling of 7 July 1992, the rights protected by the Covenant enjoyed constitutional hierarchy: the standards of the Covenant were operational and did not need to be regulated for domestic application. In its 1995 ruling on "double instance", the Court had sought to clarify that, as the supreme body of a branch of Government, it could apply international treaties to which the State was bound. The pre-eminence of international human rights law over domestic law had been confirmed in subsequent decisions of the Court.

24. From 2007 onwards, the Argentine State had prioritized human rights initiatives in the executive and legislative branches in an effort to bring domestic legislation into line with international human rights law. A National Directorate for the development of human rights norms was set up within the new framework of the Human Rights Secretariat in October 2008. The Directorate was mainly responsible for the planning and implementation of investigative research and interdisciplinary studies to harmonize national, municipal and provincial standards with current international human rights law.

25. Turning to the question on crimes against humanity committed during the dictatorship, he said that 634 cases had been tried for such crimes. Giving a breakdown of the proportion of trials and convictions handed down, he explained that trials were currently under way in five jurisdictions, and future dates had been set for hearings.

26. The repeal of the "Clean Slate" Act (No. 23492), the "Due Obedience" Act (No. 23521) and a number of other laws in 2003 had paved the way for the reopening of cases that had been shelved. The creation of a compensation fund for victims, and the setting up of a National Genetic Data Bank to identify minors who had been abducted during the dictatorship were major breakthroughs.

27. Concerning the security of key witnesses, he said that Act No. 25.764 established a witness protection programme under the National Directorate of the National Programme for the Protection of Witnesses and the Accused in cases that were reopened to investigate human rights violations committed during the former military dictatorship. The modalities of the National Programme with respect to protection,

relocation, change of identity and other tools were evaluated on a case-by-case basis. In 2007, out of a total of 430 witnesses, over 1,000 had requested information on the scope of the programme and around 200 had benefited from protective measures.

28. He described the comprehensive coverage of the Programme and the extensive national network of professionals handling the heavy caseload in conjunction with State bodies. In 2007, a number of decrees and approaches had been adopted to provide witness care, surveillance and assistance throughout the territory of the Republic.

29. The Committee had expressed interest in the operations of the National Statistics and Census Institute (INDEC), which was a public body regulated by Decree No. 1831/93 and supplementary norms. INDEC was also a decentralized body, falling within the portfolio of the national Executive branch, and was in charge of the promotion and coordination of the national statistical system. The Institute based its calculations for the consumer price index on data provided by State, provincial, municipal and national bodies and, since 2008, had adopted a system similar to that used in other Latin American countries and some parts of Europe. In accordance with Decree No. 927/09, an academic council had been established to assess and follow up on various programmes conducted by the Institute. Additional documentation, including a technical report on the consumer price index, would be made available to the Committee if necessary.

30. On the question relating to the Office for Cases of Domestic Violence of the Federal Supreme Court of Justice, he explained that the Office offered information, guidance, and preliminary legal, medical and psychological assistance and assessment to victims of domestic violence as needed. The number of complaints lodged between January and March 2010 had increased by approximately 40 per cent, over the same period in 2009. Eighty-one per cent of the victims were women, and the majority of cases, amounting to over 7,000, had been brought before either civil or criminal courts. Among the remaining cases, some victims had been referred for health or legal assistance, and around 500 cases were being handled directly by the Office. He specified that the Office was handling only those cases in which the victim had decided not to press charges after receiving counselling and assistance.

31. By virtue of Decree No. 13/2009, a Women's Office had been established, with the objective of ensuring that gender-based proceedings were incorporated into institutional planning and domestic judicial processes. The Women's Office also sought to promote gender equality among the users of the justice system and members at all levels of the judiciary.

32. To date, the Women's Office operated only in Buenos Aires, but the Federal Human Rights Council and the Human Rights Secretariat had begun to set up branches in order to expand the network of protection throughout the entire country. He confirmed that domestic legislation contained penal, civil and administrative norms aimed at preventing, penalizing and eradicating violence against women. By extension, existing laws, such as Act No. 26.485, had been updated to provide comprehensive protection, giving effect to the International Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará Convention). The Government had adopted a holistic approach to the formulation of laws targeting women, and had set guidelines for facilitating access to justice, and for the design and implementation of public policies. The National Women's Council, in consultation with relevant ministries, the judiciary and women's organizations, had contributed enormously to the enactment of new legislation to protect women.

33. **Mr. Morgado** (Argentina) said that a state of inertia, carried over from past regimes, was responsible for the low participation of women from disadvantaged groups in public affairs. Recently adopted legislation, however, provided for the shared custody of their children and the setting of quotas for them to seek election to seats in Parliament and as trade union officials.

34. Among the specific programmes targeting indigenous groups, he highlighted the 2009 programme launched by the National Institute to Combat Discrimination, Xenophobia and Racism called *Pachakutik* (which translated roughly as "transformation for a return to the correct path"). The goal of *Pachakutik* was to strengthen the sense of identity of indigenous peoples, thereby empowering them to exercise their rights; to eradicate historic patterns of exclusion and stereotypes; and to encourage women to serve in the political and social spheres, and as decision makers with the ability to formulate policies that influenced their quality of life. The programme

was also designed to boost the capacity of indigenous women's organizations; to ensure that indigenous peoples, as a whole, had full access to justice, in keeping with their customs; and to train civil servants in all aspects of non-discrimination and intercultural approaches.

35. The National Antidiscrimination Plan, adopted by Decree No. 1086/2005 of 8 September 2005, in accordance with the commitments made at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, promoted the participation of indigenous women in community and public life. Under the Plan, a number of measures had been implemented in several provinces to raise awareness and eradicate violence against all disadvantaged women, including women of African descent, and women with disabilities.

36. **Mr. Alén** (Argentina) said that a controversial bill to amend Criminal Code provisions on abortion had been much debated among experts in several fields, including civil society. Although specific action had not yet been taken in the National Congress, several other measures had been adopted to guarantee the right to abortion. The current Criminal Code clearly specified the instances in which abortion was not punishable, and the Human Rights Secretariat favoured an arrangement that provided comprehensive support to women in vulnerable circumstances. In a recent case involving the rape of a minor by her stepfather, the Supreme Court had authorized therapeutic abortion, taking into account physical and psychological considerations over and above the arguments that had previously been put forward. It had not been necessary to invoke mental or physical disability.

37. As for queries regarding the right to life and prohibition of torture, he confirmed that in 2007, more than 1,900 cases of torture and ill-treatment had been reported. He summarized the 2008 statistics on the numbers of victims, accused persons, serving and off-duty police, and other security personnel that were allegedly involved. Information on rulings handed down in those cases was not yet available, but the majority of them were still under investigation. He took the opportunity to offer the Committee a detailed report of cases.

38. Efforts to establish a national preventive mechanism for the prevention of torture, under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, were somewhat complicated by the federal structure of Argentina. Nonetheless, the Federal Human Rights Council was working with key Government ministries on the project. Various legal drafts containing recommendations by human rights organizations and academic centres had been submitted to the Ministry of Justice, Security and Human Rights, and the Human Rights Secretariat.

39. On the subject of human trafficking, under article 8 of the Covenant, he drew the Committee's attention to the central role of the judiciary and human rights defenders in providing assistance to victims of human trafficking. Sensitization programmes and institutional capacity-building were expected to play a key role in the effort to prevent the exploitation of boys, girls and adolescents, and in programmes to assist women and girl victims of sexual violence. His Government and human rights bodies were committed to eradicating all such forms of exploitation, and to that end, a national committee had been established in 2007 to prepare a code of conduct against the sexual exploitation of young persons. The code of conduct was an offshoot of an initiative by the World Tourism Organization, and gave the mandate to various agencies, the port authorities and all relevant entities, including businesses and professionals directly or indirectly related to tourism, to boost their capacity to detect and prevent human trafficking.

40. He described several national programmes launched by the Argentine Ministry of Justice, Security and Human Rights: a victim rescue unit to centralize all data collected during investigations into human trafficking, and special units of the federal security forces for the prevention of trafficking. The main functions of the national programme for the prevention and eradication of trafficking, established by Decree No. 1281/2007, also included inter-institutional cooperation between State bodies and civil society, and the proposal of protocols to implement prevention, support, and social reintegration activities. The national programme for the prevention of abduction and trafficking of children and crimes against their identity maintained a national registry of cross-referenced data on minors of unknown parentage.

41. At the regional level, the Government had worked on guidelines on best practices in the area of human trafficking within the Southern Common Market (MERCOSUR), and was actively engaged in

cross-border cooperation with Brazil and Paraguay in efforts to curb the trafficking of children for the purpose of sexual or commercial exploitation.

42. On the subject of arbitrary arrest or detention, he said that the application of the May 2005 ruling by the Supreme Court of Justice in the "*Verbitsky, Horacio writ of habeas corpus*" case, fell within the ambit of the Supreme Court of the Province of Buenos Aires, which had issued several verdicts and decisions for adapting judicial action to the standards set by the Court. The provincial Supreme Court had subsequently requested further information from the competent judges and courts in an attempt to assess compliance with the mandate of the Federal Court and, in so doing, overcome the obstacles encountered in the execution of the ruling. One of the most important measures in that regard was decision No. 3390 of the Supreme Court of the Province of Buenos Aires issued on 8 October 2008, which had led to the creation of a department dealing with human rights issues and persons deprived of liberty.

43. According to the authorities of the Province of Buenos Aires, as at 8 March 2010, the total number of detainees in police stations was 4,068, and 26,018 were held in provincial prisons. Of that number, 18,373, or 71 per cent, had been tried, and 7,645, or 29 per cent, had been sentenced. If those calculations included detainees who had been sentenced at first instance, that proportion would rise to 47 per cent of the 26,018 persons detained in provincial prisons. The average period from the start of detention to sentencing was 360 days.

44. Regarding mechanisms for redress in the event of unlawful detention, he explained that remedies were provided under article 477 of the Code of Criminal Procedure for the Province of Buenos Aires, in accordance with articles 1109 and 1113 of the Civil Code. Legal precedents had established that compensation was due when detention extended beyond a reasonable period of time, even if there was a valid reason for detention in the first place. The Minister of Justice for the Province of Buenos Aires had produced a report, an English copy of which would be submitted to the Committee. The Minister had expressed his willingness to present further information, in person, at a future session of the Committee if necessary.

45. With reference to the Code of Criminal Procedure for the Province of Buenos Aires and its subsequent amendments, he said that article 171 of the Code established the cases in which release from detention could be denied, for instance, if a judge believed there was a risk that an accused might flee or otherwise obstruct the course of justice. The application and interpretation of that article by the Buenos Aires provincial courts had led to a high rate of imprisonment, in stark conflict with the principle of the presumption of innocence. Indeed, international standards provided that potential risks should be assessed, proved and established as such on a case-by-case basis, giving due consideration to the presumption of innocence. A 2006 amendment had had the effect of reducing overcrowding in places of detention, in keeping with the general principle contained in article 9 of the Covenant. The 2008 law to which the Committee had referred, had introduced further amendments: changes to article 293 of the Mendoza Code of Criminal Procedure had allowed recidivism to be invoked as a basis for denying release, which ran counter to the concept of presumption of innocence. However, given the robust opposition voiced by several non-governmental organizations (NGOs), the Chamber of Senators decided to align its legislation with article 9 of the Covenant in respect of challenges to arbitrary pretrial detention and habeas corpus, and by rejecting the original proposal to extend the duration of detention to four years.

46. With regard to the right of persons deprived of their liberty to be treated with humanity, he said the Government had embarked on systematic plans to improve prison conditions and reduce overcrowding. The Federal Penitentiary Service was able to accommodate 10,230 inmates and there were currently 9,268: an achievement that had been a direct result of the infrastructural expansion and maintenance carried out since 2004 to streamline the distribution of the prison population. An innovative programme for mediation and dispute settlement, with inmates serving as impartial intermediaries, had effectively reduced violence, and the authorities had imposed tighter controls on the entry of prohibited substances into prison facilities.

47. With regard to prisoners' enjoyment of basic rights, he informed the Committee that agreements had been concluded with competent Government ministries and teaching institutions in each province to offer

primary and secondary education in federal prisons. University studies would be accessible to at least 8 per cent of the total number of inmates in the medium term and to up to 12 per cent in the longer term. One hundred twenty inmates were expected to embark on university or higher-level training in two years. The National University of Buenos Aires, through the Devoto University Centre, offered courses in law, sociology, psychology, literature and economics to inmates of federal prisons. The authorities had also succeeded in increasing the number of gainfully employed inmates from 3,200 to 4,472 between 2006 and 2009. A number of cultural events and activities were available to all prisoners as an added feature.

48. The prison health-care system employed 615 health professionals, 322 of whom were doctors; that amounted to a doctor-patient ratio that was exponentially higher than the corresponding ratio in the Argentine population outside the prisons. Furthermore, specific programmes in penal institutions had placed great focus on the pandemic H1N1 virus, HIV/AIDS, sexual and reproductive health, and mental health.

49. **Mr. Pérez Sánchez-Cerro** welcomed the submission of Argentina's fourth periodic report after a lapse of 10 years. Although the Committee was encouraged by important advances and innovations, and could appreciate the impressive scope of the standards that had been introduced, the quantitative and qualitative data in the report and replies were not sufficient to provide clear insight into the current human rights situation in Argentina, or the correlation between the new standards and the situation on the ground. When the State party had presented its third periodic report in 2000, the Committee had recommended the compilation of disaggregated statistics on the main areas of concern. Such data had not been incorporated into the fourth periodic report; although a list of enacted legislation had been provided, the Committee would have welcomed more information on measures, outcomes and results obtained, in order to accurately assess how the situation had evolved, and to measure the impact of Government action. He urged the State party to provide the necessary statistics on federal and provincial initiatives for the Committee's consideration of the fifth and subsequent periodic reports.

50. Referring to the Committee's request for concrete and up-to-date examples of cases in which the provisions of the Covenant had been invoked before the domestic courts, he stressed that the Committee was interested in existing mechanisms for the implementation and enforcement of decisions of regional and international human rights bodies. Matters relating to the distribution of authorities and powers between Argentina's federal and provincial Governments should not absolve the central authorities of their responsibility for ensuring that the rights governed by human rights treaties were duly respected throughout the entire territory. A uniform approach to assigning such responsibilities might be useful. In a similar vein, he asked what plans had been made for the enforcement of recommendations and legal rulings by international bodies, and whether such enforcement would be carried out through the courts.

51. Turning to the topic of crimes against humanity committed during the period of military dictatorship, the Committee had noted that excessively long periods, occasionally up to 18 months, elapsed between the investigative phase and the public trial of persons accused of such crimes. Considering that only 6 per cent of the total number of cases slated for trial was actually under way, and that only two cases, dating back to 2006, had resulted in final rulings, he asked the delegation to explain why the process had extended over such a protracted period.

52. The Committee was puzzled by the reduction in the number of judges in the Supreme Court, and wished to know the reason for that decision, and what impact it had had on the Government's role in the appointment of members to the Council of the Magistrature.

53. In 2009, 59 civilian deaths, representing an increase of 60 per cent over the previous year, had been attributable to repressive methods used by the police. According to one of the disturbing reports reaching the Committee, at least four minors had either disappeared or died after being beaten while in police custody in the Province of Buenos Aires. The State party should provide information on investigations carried out as a result of those allegations, the likely causes for increased police aggression, and action the Government intended to take in order to prevent a recurrence of such incidents.

54. With respect to the protection of witnesses involved in cases of human rights violations, it would be useful to know how many requests had been made for witness protection and how those cases had

evolved. He also asked whether there was a protocol or manual of guidelines for judges and prosecutors on responding to requests for protection.

55. With regard to access to public information, he noted that the credibility of the National Statistics and Census Institute (INDEC) had been called into question. He urged the State party to do its utmost to improve the image and transparency of the Institute, thereby strengthening the right of citizens to truthful, accurate and reliable information.

56. **Mr. Thelin** lamented the fact that he neither read nor understood Spanish, and that he had missed some of the points made by the delegation in their written replies. He said that, apart from being a State party to the Covenant, Argentina was also a distinguished member of the General Assembly. He hoped that every effort would be made to remedy the situation relating to the translation of working documents so that all Committee members might be able to participate fully in the discussion when considering the State party's future periodic reports.

57. Despite the extensive and detailed information provided by the delegation on steps taken to advance the situation of women in Argentina, including the work of the Office for Cases of Domestic Violence in providing medical and legal assistance to victims of violence, much improvement was needed to ensure equal protection for women under article 3 of the Covenant. It was regrettable that legislation originally intended to provide a "holistic approach" in dealing with the situation of violence against women was actually hampered by a lack of subsidiary laws and regulations necessary for its application throughout Argentine territory. Furthermore, he had noticed the absence of national statistics on the prevalence of violence against women. The Committee wished to know whether the Government intended to compile such data, since they were essential tools that the State party could use to assess the impact of existing legislation. He asked the delegation to confirm whether more than 90 per cent of the cases of violence against women had been committed by persons with whom the victim had been familiar. According to the Office for Cases of Domestic Violence, roughly 3,500 cases of abuse and other forms of violence against women had been referred to criminal courts in Buenos Aires. He wondered what proportion of the persons brought before those courts had been convicted, whether the Government intended to extend the services of the Office beyond Buenos Aires, and if so, the time frame in which that step was anticipated.

58. He called the delegation's attention to question 6 on the list of issues concerning measures to promote the participation of women from disadvantaged groups in public life and to ensure their access to justice. He took it that there was strong political will and leadership for the *Pachakutik* programme, under the National Institute to Combat Discrimination, Xenophobia and Racism (INADI), which encouraged the active involvement of indigenous women's organizations in the formulation of public policy and in monitoring the implementation of health and social programmes in indigenous communities. He was curious to know whether adequate resources had been allocated for that purpose, and what tools would be used to measure the success of the *Pachakutik* programme.

59. Although, under article 86 of the Criminal Code, abortion was not punishable under certain circumstances, such as pregnancies resulting from rape or on therapeutic grounds, the interpretation of that article by the courts was rather narrow. The admissibility of abortion for rape victims had been construed as applying only to victims suffering from a disability, and was undermined by the prevailing sentiment against abortion, stemming from cultural and religious factors. Apparently, professionals defending or treating women seeking non-punishable abortions were routinely harassed or threatened. It was the State party's responsibility to remove any remaining obstacles and speed up the adoption of a more liberal the reform bill that had been before the Ministry of Justice for some time. He therefore wished to know whether a plan of action had been formulated to that end, and what time frame was envisaged for the adoption of the amendment to the Code.

60. The use of pretrial detention as the general rule, rather than the exception, was incompatible with the provisions of article 14 of the Covenant. Noting the delegation's comments on addressing the imbalance by developing case law, he pointed out that case law reform was a lengthy process. It was crucial for the Argentine Government to accelerate the process of bringing existing legislation into line with the Covenant. He would appreciate clarification of the State party's intention in that regard.

61. Noting the reduction in the number of Supreme Court judges, within the general context of national reform and strengthening of the judiciary since 2003, he asked the delegation to clarify the role of the Senate in the appointment and removal of Supreme Court judges under the new regime. Was there an established procedure for the impeachment of those judges?

62. **Mr. Rivas Posada** said that the nature of the violence that had broken out between July 2007 and June 2008 was not clear. He reiterated the Committee's earlier query with respect to the prevalence of abuse or excessive use of force by the police, and asked for further details on compensation awards to victims of alleged abuse in prisons. The State party's explanations concerning prison conditions seemed to downplay problems such as overcrowding of prisons in the Buenos Aires metropolitan area. He was interested in knowing whether those encouraging statistics also applied to the rest of the country, and whether the Committee could assume that the remaining problematic issues throughout Argentina were within the control of the authorities. Had the State party considered alternatives to imprisonment in order to alleviate the burden on the prison system?

63. **Ms. Majodina** said that she, too, had had difficulty in fully understanding the written replies since the text had not been available in English; however, the further details supplied by the members of the delegation in their oral replies had been quite useful.

64. Nonetheless, regarding question 9 on the list of issues, she said that not only was information on the number of complaints of torture and ill-treatment by law enforcement agencies incomplete, but there was also no information on remedies available to victims of torture, follow-up action on complaints, penalties imposed on perpetrators, or the establishment of a national registry for torture cases. Even though the Committee had been informed of three bills before the National Congress for the establishment and implementation of a national mechanism on the prevention of torture, there had been no reports on the progress of those deliberations and no sign of any intention to include civil society in those discussions, or in subsequent implementation of the national mechanism, or of measures to safeguard the independence of the mechanism when it became operational. She was also curious to know how the monitoring of detention facilities could be effectively coordinated between the federal system and the provinces.

65. With reference to question 11 on the list of issues, she welcomed the additional information on initiatives aimed at compliance with the Supreme Court ruling on pretrial detention, but said that she would have liked even more statistics. She asked the delegation for details on remedies, and invited comments on the reform of the Buenos Aires Code of Criminal Procedure of December 2008, which reportedly had led to regressive policies. Was it true that pretrial detention was currently more prevalent than before, and to what extent was the introduction of new provisions, such as article 293 of the Code of Criminal Procedure, consistent with the Covenant?

66. **Ms. Motoc** said that she had been fortunate to have had the opportunity to observe the role of Argentina in the international domain, particularly with regard to its expertise in the area of genetics. She requested clarification of issues relating to article 8 of the Covenant. Referring to the provisions of the 2007 Criminal Code, she commended the Argentine authorities for acknowledging the difficulty in proving "lack of consent" in order for certain practices to be classified as human trafficking, and for undertaking initiatives to address it. She would be grateful for a progress report on adoption of the necessary legislative amendments in that regard. In a similar vein, she recalled that the National Institute to Combat Discrimination, Xenophobia and Racism had proposed a bill on human trafficking for consideration by the National Congress. She asked what action had been taken on the new draft amendment to Act No. 26.364 that was later submitted by the Institute.

67. **Sir Nigel Rodley** recalled the momentous occasion, 25 years earlier, when the Argentine representative on the United Nations Commission on Human Rights had proposed the appointment of a United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. The representative, himself a former exile of the repressive regime of the military dictatorship, had launched an initiative on an issue that was one of the hallmarks of the regime from which he had fled.

68. It was therefore all the more disturbing to gather from NGO reports that the practice of torture at all phases of detention was systematic in Argentine prisons. He asked the delegation for its assessment of

the scope of the problem, since the fourth periodic report and the replies did not really address the situation on the ground. He wished to understand the source of the problem, given the fact that the State party had gone out of its way to secure proper legislation. He wondered what circumstances had contributed to continued abuse, and whether any steps had been taken to curb such violations. It was particularly puzzling that there had been little progress in processing even habeas corpus cases.

69. The widespread use of police stations for housing detainees on remand, particularly in the Province of Buenos Aires, was clear evidence that prisons were overcrowded, and that the problem had been passed on to police stations. The Committee generally recommended that detainees should be kept for the shortest time possible and transferred out of the hands of the police, who were responsible for investigation and interrogation. It was even more disheartening to learn that the treatment of detainees at police stations might actually be worse than in prisons.

70. He would appreciate more information on steps taken to implement the Levitsky decision (2005). Measures that had initially led to substantial reduction in overcrowding had apparently been reversed, in flagrant contravention of that decision. It now appeared that alternative measures were excluded, so judges were compelled to limit their choice to either provisional detention or release. If that were indeed the case, what did Argentina, as a country governed by the rule of law, intend to do about that state of affairs? Since he understood the complexities inherent in a federal government structure, he wished to know how decisions of the Supreme Court were actually implemented. The Argentine Government might wish to consider the example of a neighbouring State, which had begun to address similar challenges through the adoption of legislation that allowed the federal government to ensure that its states complied with federal and international norms. It would be reassuring to know what measures were being taken to give full effect to the prohibition of torture and cruel and degrading punishment.

The meeting was suspended at 5.30 and resumed at 5.45.

71. **Mr. Alén** (Argentina), in response to the query on crimes against humanity, said that one result of the repeal of the Clean Slate and Due Obedience Acts was that the investigative period now included a phase for gathering evidence on cases that had been reopened. He stressed that the right to due process and defence was guaranteed to all, since it was held that no person's rights should be trespassed upon in the process. The current legal framework provided for double instance, and defendants had the opportunity to appeal a first conviction.

72. In order to give the Committee a proper perspective on how the trials were progressing, he offered to provide further details on the cases of crimes against humanity that had resulted in firm rulings. He also explained that the delays in the trial process had come about partly because some crimes had been committed in clandestine detention and extermination centres, and there were often a number of victims and their representatives involved. The investigation process was fragmented: different cases were heard at different stages, with each step towards justice occurring at a different pace. In the search for a comprehensive approach, and in order to achieve greater consistency in the outcomes, the courts often decided to try batches of cases when they were ready, rather than select isolated instances, or showcase only the high-profile cases.

73. The Human Rights Secretariat had also followed up on complaints about flawed proceedings when the trial procedure was unduly lengthy. By 2008, a large number of cases throughout the entire territory of Argentina had in fact been brought to trial. He briefly summarized the cases that had been resolved in the various provinces, saying that the process had gathered momentum, and that the Secretariat hoped that trend would continue. In its pursuit of memory, justice and human rights, the Government could not remain neutral.

74. **Ms. Gualde** (Argentina), referring to follow-up mechanisms for international instruments, explained that international representation of the State party in human rights matters fell under the Ministry of Foreign Affairs and the Human Rights Secretariat. Cooperation with international bodies on human rights was a priority for the Argentine Government, and work in that context involved a system of follow-up to cases, reports and recommendations. At the request of two civil society organizations, the Secretariat and Ministry had established a round table to implement a monitoring system for rulings and recommendations of international human rights bodies, starting at the

regional level, through the Organization of American States and the Inter-American Commission on Human Rights. The round table provided a forum for sharing experiences and reviewing the system of norms and practices designed to ensure full compliance with the requirements of international human rights bodies. After diagnosing the situation, bearing in mind the need to establish short, medium and long-term strategies, the round-table team had explored the possibility of issuing norms that would facilitate and accelerate the coordination of agencies within the executive branch and the relationship of the executive with the other branches of Government.

75. She reiterated her Government's commitment to transparency, and explained that, in analysing international complaints, Argentina took its responsibility for human rights violations seriously and worked in a consensual fashion to set up a plan for the disbursement of reparation awards to victims, in accordance with universal principles. After describing a number of legislative and policy innovations, she reiterated her Government's commitment to the comprehensive implementation of decisions handed down by international human rights bodies.

The meeting rose at 6.05 p.m.